

UNITED STATES TAX COURT
WASHINGTON, DC 20217

VERNICE B. KUGLIN,)	
)	
Petitioner,)	CZ
)	
v.)	Docket No. 14065-13 L
)	
COMMISSIONER OF INTERNAL REVENUE,)	
)	
Respondent.)	

ORDER OF DISMISSAL AND DECISION

This section 6330(d)¹ case is before the Court on respondent's Motion to Dismiss for Failure to State a Claim upon which Relief Can Be Granted and to Impose a Penalty under I.R.C. Section 6673, filed August 8, 2013. By Order dated August 9, 2013, petitioner was given the opportunity: (1) to cure the defective petition by submitting an amended petition; and (2) to submit an objection to respondent's motion. She did neither.

This case was commenced in response to a Notice of Determination Concerning Collection Action(s) Under Section 6320 and/or 6330, dated May 20, 2013 (notice), in which respondent determined that a Notice of Federal Tax Lien is an appropriate collection action with respect to petitioner's outstanding 2005 Federal income tax liability. A copy of the notice is attached to the petition.

Respondent's motion references several other Tax Court proceedings commenced by petitioner. Those cases show her pattern of commencing a case, only to concede it in full prior to trial. We consider petitioner's failure to reply to the above-referenced Order to reflect her concession that respondent's motion is well-made as it relates to petitioner's challenge to the determination made in the notice. Moreover, we view the allegations contained in the petition to be meritless challenges to respondent's statutorily authorized procedures. Those allegations do not give rise to any justiciable issues.

¹Section references are to the Internal Revenue Code of 1986, as amended.

Given the burden imposed upon respondent pursuant to section 7491(c), however, we do not consider petitioner's failure to respond to the above-referenced Order to be a concession that she is liable for a section 6673(a) penalty. Furthermore, although positions advanced in the petition might suggest the imposition of a section 6673(a) penalty, we do not, under the circumstances, consider it appropriate to impose that penalty as part of this summary disposition.

That being so, it is

ORDERED that so much of respondent's motion as requests the imposition of a section 6673(a) penalty is denied. In all other respects, it is

ORDERED that respondent's motion is granted, and this case is dismissed upon the stated ground. It is further

ORDERED and DECIDED that respondent may proceed with collection as determined in the notice.

Upon appropriate motion by respondent, the Court will vacate this Order of Dismissal and Decision in order to allow respondent to pursue his claim for the imposition of a section 6673(a) penalty.

(Signed) Lewis R. Carluzzo
Special Trial Judge

ENTERED: **APR 25 2014**